

§ 79.47 Proof of no heavy smoking, no heavy drinking, no heavy coffee drinking, and no indication of disease.

Proof of the claimant's smoking, drinking, and coffee drinking, and the existence of an indication of disease under this subpart must be established in accordance with the provisions of § 79.27.

Subpart F—Procedures

§ 79.50 Attorney General's delegation of authority.

(a) An Assistant Director within the Constitutional and Specialized Tort Staff, Torts Branch, Civil Division, shall be assigned to manage the Radiation Exposure Compensation Program and issue a decision on each claim filed under the Act, and otherwise act on behalf of the Attorney General in all other matters relating to the administration of the Program.

(b) The Assistant Attorney General, Civil Division, or the official designated by him to act on his behalf (the Appeals Officer), shall act on appeals from the Assistant Director's decisions.

§ 79.51 Filing of claims.

(a) All claims for compensation under the Act must be in writing and submitted on a standard form designated by the Assistant Director for the filing of compensation claims. Except as specifically provided in these regulations, the claimant or eligible surviving beneficiary must furnish the written medical documentation required by these regulations with his/her standard form. Except as specifically provided in these regulations, the claimant or eligible surviving beneficiary must also provide with the standard form records establishing his/her physical presence in an affected area, employment in an uranium mine, or onsite participation, in accordance with these regulations. The standard form must be completed, signed under oath either by a person eligible to file a claim under the Act or by that person's legal guardian, and mailed with supporting documentation to the following address: Radiation Exposure Compensation Program, U.S. Depart-

ment of Justice, P.O. Box 146, Ben Franklin Station, Washington, DC 20044-0146.

Copies of the standard form, as well as the regulations, guidelines and other information may be obtained by requesting the document or publications from the Assistant Director at the address indicated above.

(b) A claim will be filed after receipt of the standard form with supporting documentation and examination for substantial compliance with these regulations. The date of filing shall be recorded by a stamp on the face of the standard form. The Assistant Director shall only file claims which substantially comply with § 79.51(a) of these regulations. Claims which substantially fail to comply with the aforementioned section shall be promptly returned unfiled to the sender with a statement identifying the reasons why the claim does not comply with the regulations. The sender may return the claim to the Assistant Director after correcting the deficiencies. For those cases that are filed, the Assistant Director shall promptly acknowledge receipt of the claim with a letter identifying the number assigned to the claim, the date the claim was filed, and the period within which the Assistant Director must act on the claim.

(c) The following persons or their legal guardians are eligible to file claims for compensation under the Act in the order listed below:

- (1) The claimant;
- (2) If the claimant is deceased, the spouse of the claimant;
- (3) If there is no surviving spouse, a child of the claimant;
- (4) If there is no surviving spouse or child, a parent of the claimant;
- (5) If there is no surviving spouse, child or parent, a grandchild of the claimant; or
- (6) If there is no surviving spouse, child, parent or grandchild, a grandparent of the claimant.

(d) The identity of the claimant must be established by submitting a birth certificate, or one of the documents identified in § 79.14(a) of these regulations when the person has no birth certificate.

(e) The spouse of a claimant must establish his/her eligibility to file a claim by furnishing:

- (1) His/her birth certificate;
- (2) The birth and death certificates of the claimant;
- (3) One of the following documents to establish a marriage to the claimant;
 - (i) The public record of marriage;
 - (ii) A certificate of marriage;
 - (iii) The religious record of marriage;
 or
- (iv) A judicial or other governmental determination that a valid marriage existed, such as the final opinion or order of a probate court or a determination of the Social Security Administration that the claimant is the spouse of the decedent; and

(4) An affidavit (or declaration under oath on the standard claim form) stating that the spouse was married to the claimant for at least one year immediately prior to the claimant's death.

(5) If the spouse is a member of an Indian Tribe, he/she need not provide any of the documents listed above at the time the claim is filed (although these records may later be required), but instead should furnish a signed release of private information which will be used by the Assistant Director to obtain a statement of verification of all of the information listed above directly from the tribal records custodian.

(f) A child of a claimant must establish his/her eligibility to file a claim by furnishing:

- (1) His/her birth certificate;
- (2) The birth and death certificates of the claimant;
- (3) One of the documents listed in paragraph (e)(3) of this section to establish each marriage to the claimant (if applicable);
- (4) A death certificate or divorce decree for each spouse of the claimant (if applicable);
- (5) A death certificate for each of the other children of the claimant (if applicable);
- (6) An affidavit (or declaration under oath on the standard claim form) stating the following:
 - (i) That the claimant was never married, *or*, if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and

the date and place of divorce or death of the last spouse of the claimant; and

(ii) That the claimant had no other children, *or*, if the claimant did have other children, the name of each child, the date and place of birth of each child, and the date and place of death or current address of each child; and

(7) One of the following:

(i) In the case of a natural child, a birth certificate showing that the claimant was the child's parent, or a judicial decree identifying the claimant as the child's parent;

(ii) In the case of an adopted child, the judicial decree of adoption;

(iii) In the case of a step child, evidence of birth to the spouse of the claimant as outlined above, and records which reflect that the step child lived with the claimant in a regular parent-child relationship.

(8) If the child is a member of an Indian Tribe, he/she need not provide any of the documents listed above at the time the claim is filed (although these records may later be required), but instead should furnish a signed release of private information which will be used by the Assistant Director to obtain a statement of verification of all of the information listed above from the tribal records custodian.

(g) A parent of a claimant must establish his/her eligibility to file a claim by furnishing:

- (1) His/her birth certificate;
- (2) The birth and death certificates of the claimant;
- (3) One of the documents listed in paragraph (e)(3) of this section to establish each marriage to the claimant (if applicable);
- (4) A death certificate or divorce decree for each spouse of the claimant (if applicable);
- (5) A death certificate for each child of the claimant (if applicable);
- (6) A death certificate for the other parent(s) (if applicable);
- (7) An affidavit (or declaration under oath on the standard claim form) stating the following:
 - (i) That the claimant was never married, *or*, if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and the date and place of divorce or death of the last spouse of the claimant; and

(ii) That the claimant had no children, *or*, if the claimant did have children, the name of each child, the date and place of birth of each child, and the date and place of death of each child;

(iii) The name and address, or date and place of death, of the other parent(s) of the claimant; and

(8) One of the following:

(i) In the case of a natural parent, a birth certificate showing that the claimant was the parent's child, or a judicial decree identifying the claimant as the parent's child;

(ii) In the case of an adoptive parent, the judicial decree of adoption;

(9) If the parent is a member of an Indian Tribe, he/she need not provide any of the documents listed above at the time the claim is filed (although these records may later be required), but instead should furnish a signed release of private information which will be used by the Assistant Director to obtain a statement of verification of all of the information listed above from the tribal records custodian.

(h) A grandchild of a claimant must establish his/her eligibility to file a claim by furnishing:

(1) His/her birth certificate;

(2) The birth and death certificates of the claimant;

(3) One of the documents listed in paragraph (e)(3) of this section to establish each marriage to the claimant (if applicable);

(4) A death certificate or divorce decree for each spouse of the claimant (if applicable);

(5) A death certificate for each child of the claimant;

(6) A death certificate for each parent of the claimant;

(7) A death certificate for each of the other grandchildren of the claimant (if applicable);

(8) An affidavit (or declaration under oath on the standard claim form) stating the following:

(i) That the claimant was never married, *or*, if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and the date and place of divorce or death of the last spouse of the claimant;

(ii) The name of each child, the date and place of birth of each child, and the date and place of death of each child;

(iii) The names of each parent of the claimant together with the dates and places of death of each parent; and

(iv) That the claimant had no other grandchildren, *or*, if the claimant did have other grandchildren, the name of each grandchild, the date and place of birth of each grandchild, and the date and place of death or current address of each child; and

(9) One of the following:

(i) In the case of a natural grandchild, a combination of birth certificates showing that the claimant was the grandchild's grandparent;

(ii) In the case of an adopted grandchild, a combination of judicial records and birth certificates showing that the claimant was the grandchild's grandparent;

(iii) In the case of a step grandchild, evidence of birth to the spouse of the child of the claimant, as outlined above, and records which reflect that the step child lived with a child of the claimant in a regular parent-child relationship;

(10) If the grandchild is a member of an Indian Tribe, he/she need not provide any of the documents listed above at the time the claim is filed (although these records may later be required), but instead should furnish a signed release of private information which will be used by the Assistant Director to obtain a statement of verification of all of the information listed above from the tribal records custodian.

(i) A grandparent of the claimant must establish his/her eligibility to file a claim by furnishing:

(1) His/her birth certificate;

(2) The birth and death certificates of the claimant,

(3) One of the documents listed in subsection (e)(3) above to establish each marriage to the claimant (if applicable);

(4) A death certificate or divorce decree for each spouse of the claimant (if applicable);

(5) A death certificate for each child of the claimant (if applicable);

(6) A death certificate for each parent of the claimant;

(7) A death certificate for each grandchild of the claimant (if applicable);

(8) A death certificate for each of the other grandparents of the claimant (if applicable);

(9) An affidavit stating the following:

(i) That the claimant was never married, *or* if the claimant was ever married, the name of each spouse, the date each marriage began and ended, and the date and place of divorce or death of the last spouse of the claimant;

(ii) That the claimant had no children, *or*, if the claimant did have children, the name of each child, the date and place of birth of each child, and the date and place of death of each child;

(iii) The names of each parent of the claimant together with the dates and places of death of each parent;

(iv) That the claimant had no grandchildren, *or*, if the claimant did have grandchildren, the name of each grandchild, the date and place of birth of each grandchild, and the date and place of death of each grandchild; and

(v) The names of all other grandparents of the claimant together with the dates and places of birth of each grandparent, and the dates and places of death of each other grandparent or the current address of each other grandparent; and

(10) One of the following:

(i) In the case of a natural grandparent, a combination of birth certificates showing that the claimant was the grandparent's grandchild;

(ii) In the case of an adoptive grandparent, a combination of judicial records showing that the claimant was the grandparent's grandchild;

(11) If the grandchild is a member of an Indian Tribe, he/she need not provide any of the documents listed above at the time the claim is filed (although these records may later be required), but instead should furnish a signed release of private information which will be used by the Assistant Director to obtain a statement of verification of all of the information listed above from the tribal records custodian.

(j) A claim that was filed and denied may be filed again in those cases where the claimant or eligible surviving beneficiary obtains documentation he/she did not possess when the claim was previously filed that establishes:

(1) An injury specified in the Act,

(2) Residency in the affected area,

(3) Onsite participation in a nuclear test, or

(4) Exposure to a defined minimum level of radiation in a uranium mine or mines during a designated time period.

However, a claimant or eligible surviving beneficiary may not file a claim more than three times.

§ 79.52 Review and resolution of claims.

(a) *Initial review.* The Assistant Director shall conduct an initial review of each claim that has been filed to determine whether:

(1) The person submitting the claim appears to be an eligible surviving beneficiary, in those cases where the claimant is deceased;

(2) The medical condition identified in the claim is a disease specified in the Act for which the claimant or eligible surviving beneficiary could recover compensation;

(3) For claims submitted under subparts B and C of this part, the period or place of physical presence set forth in the claim falls within the designated time period or affected areas identified in section 79.11;

(4) For claims submitted under subpart D of this part, the period or place of uranium mining set forth in the claim falls within the designated time period or specified states identified in § 79.31;

(5) For claims submitted under subpart E, the place and period of onsite participation set forth in the claim falls within the places and times set forth in §§ 79.41 (c) and (f).

If the Assistant Director determines from the initial review that any one of the applicable criteria is not met, or that any other criteria of the regulations is not met, she shall so advise the claimant or eligible surviving beneficiary in writing setting forth the reasons for his determination and provide the claimant or eligible surviving beneficiary sixty days from the date of his letter to correct the deficiency. If the claimant or eligible surviving beneficiary fails to adequately correct the deficiency within the sixty day period, the Assistant Director shall issue a Decision denying the claim without further review.